

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : William G.F. Kelly
Serial No. : 10/800,093 Art Unit: 3761
Filed : March 12, 2004 Examiner: Hand, Melanie Jo
For : ABSORBENT ARTICLE WITH STAIN MASKING
CHARACTERISTICS

I hereby certify that this correspondence is being deposited with the
United States Patent Office via EFS:

February 27, 2008

(Date)

Paul J. Higgins

Name of applicant, assignee, or Registered Representative
/Paul J. Higgins/

/Paul J. Higgins/

(Signature)

February 27, 2008

(Date of Signature)

Commissioner for Patents
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RULE 132 DECLARATION OF WILLIAM G.F. KELLY

I, William G.F. Kelly, hereby declare and state that:

1. I am an inventor in the above-referenced patent application. I hold a B.S. degree in Mathematics (1975) from University College. I have been employed by Johnson & Johnson Consumer Companies, Inc., and its predecessors in interest, since 1972 holding various positions including my current position as Research Fellow. I have

extensive experience and familiarity with apertured film materials and sanitary absorbent articles including such apertured film materials.

2. I am familiar with the prosecution history of my patent application. I am aware that the invention as recited in claim 1 defines a sanitary napkin including an apertured film body-facing cover layer having an open area between about 20% and about 30%, an absorbent system adjacent the cover layer for receiving liquid therefrom, a fluid impermeable garment facing layer, and wherein the sanitary napkin has a masking value less than about 115,000, an average fluid penetration time of less than about 45 seconds and an average rewet of less than about .05 grams.

3. I am familiar with the Office Action dated October 12, 2007. I am aware that the Examiner has alleged in such Office Action that the claims are rendered obvious by published US patent application, US20040253894 (hereinafter "Fell") in view of WO 93/12749 (hereinafter "Goodman"). More specifically, I am aware that the Examiner has alleged that it would be obvious to one of skill in the art to construct an article having a body side liner as purportedly disclosed by Fell, wherein the body side liner has an open area of between about 20% and about 30% as purportedly disclosed by Goodman. I am also aware that the Examiner has alleged that an article constructed in this manner would inherently have the claimed functional properties recited in claim 1.

4. An apertured film body-facing cover layer of the type described in Fell having an open area that the Examiner contends is consistent with the teachings of Goodman was prepared. In particular, the body-facing cover layer consisted of an apertured thermoplastic film having an open area of 25% and a titanium dioxide content of 6%. A stabilized absorbent layer consistent with the teachings of Fell was constructed. In particular, the stabilized absorbent layer included a 120 gsm top layer constructed from 90% fluff pulp and 10% bicomponent binder fiber having a pattern as shown in Figs. 21 A-B of Fell. The top layer was arranged atop a 500 gsm lower layer constructed from 40% SAP and 60% pulp. A sanitary napkin structure was

constructed using the above described cover layer and stabilized absorbent layer together with an liquid impermeable film barrier layer, consistent with the teachings of Fell.

5. I tested the above described sanitary napkin according to the test methods set forth in my patent application and have provided the results of such tests in the Table below. All testing of the above described napkin structure was done by me or under my supervision.

	Test Sanitary Napkin
Fluid Penetration Time (seconds)	16.13
Re-wet Potential (grams)	0.025
Masking Value	190,746

6. As illustrated by the data collected, the sanitary napkin constructed in a manner consistent with the teachings of Fell in view of Goodman does not possess the functional properties of the absorbent article recited in the claimed invention. In particular, the sanitary napkin so-constructed does not meet the claimed limitation for Masking Value.

7. An absorbent article having the combination of structural features and functional properties recited in the claims is to applicants' knowledge unknown in the art prior to applicant's discovery.

8. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

William G D Kelly
William Kelly

Feb 27, 2008
Date